

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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United States of America,

Case No. 21-cr-250 (JRT/TNL)

Plaintiff,

v.

**ORDER**

Jing Chen (1),  
Ying Chen (2).  
Li Yang (3), and  
Xinhua Xiong (4),

Defendants.

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This matter comes before the Court on a Motion for Continuance of Motions Hearing filed by Defendant Jing Chen on November 7, 2022. ECF No. 205. Defendant Jing Chen also filed on November 7, 2022, a Statement of Facts in Support of Continuance of Motions Hearing Date Under the Speedy Trial Act. ECF No. 206. This matter was previously designated complex under 18 U.S.C. § 3161(h)(7)(B)(iv). ECF No. 104.

Defendant Jing Chen moves for a continuance of the motions hearing, scheduled for November 9, 2022, “so that counsel may subpoena the intended witnesses.” ECF No. 205 at 1. Defendant Jing Chen notes that she has been unable to get her witnesses under subpoena and the Government will not be calling any witnesses at the motions hearing. *Id.* Defendant Jing Chen therefore contends that a continuance is “necessary so that [she] may have a meaningful opportunity to challenge the search and seizure conducted in this case and to obtain personal service upon the agent(s) who conducted this search.” ECF No. 206

at 1. Defendants Ying Chen and Li Yang do not object to a continuance of the motions hearing. Xinhua Xiong did not provide input on the request.

The Government objects to Defendant Jing Chen's request for a continuance of the motions hearing. ECF No. 207 at 1. The Government argues that Defendant Jing Chen's motion should be denied because (1) the hearing has been scheduled since August 23, 2022, and she has had ample time to subpoena witnesses, (2) she fails to explain why the witnesses are necessary for the motions hearing and is therefore conducting "a fishing expedition," and (3) "[f]urther continuances will only contribute to the kind of pre-trial delay for which [Jing] Chen has repeatedly sought to blame the government." *Id.* at 1-2.

The Government's arguments are certainly understandable in that Defendant Jing Chen has had ample notice of this hearing and is in the best position to determine which witnesses she wants at the hearing. Considering all of the circumstances and the arguments of the parties, however, the Court will grant Defendant Jing Chen's request to continue the motions hearing so that she may subpoena the witnesses she intends to call at the motions hearing. The Court expects that Defendant Jing Chen will have the witnesses subpoenaed well in advance of the motions hearing and be prepared to move forward on that date. Further, pursuant to 18 U.S.C. § 3161(h), this Court finds that the ends of justice served by granting a continuance outweigh the best interests of the public and Defendants in a speedy trial and such continuance is necessary to provide Defendants and their counsel reasonable time necessary for effective preparation and to make efficient use of the parties' resources. Because "[e]xclusions of time attributable to one defendant apply to all codefendants," *United States v. Mallett*, 751 F.3d 907, 911 (8th Cir. 2014) (quotation omitted); *see also*

*United States v. Arrellano-Garcia*, 471 F.3d 897, 900 (8th Cir. 2006), this period of time will be excludable as to all Defendants, including Ying Chen, Li Yang, and Xinhua Xiong.

Based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Defendant Jing Chen's Motion for Continuance of Motions Hearing, ECF No. 205, is **GRANTED**.

2. The period of time from **November 7 through December 9, 2022**, shall be excluded from Speedy Trial Act computations in this case. *See Mallett*, 751 F.3d at 911; *Arrellano-Garcia*, 471 F.3d at 900.

3. The motions hearing shall take place before the undersigned on **December 9, 2022**, at **10:00 a.m.**, in **Courtroom 9W**, Diana E. Murphy U.S. Courthouse, 300 South Fourth Street, **MINNEAPOLIS**, Minnesota. D. Minn. LR 12.1(d).

4. **TRIAL:**

a. **IF NO PRETRIAL MOTIONS ARE FILED BY A DEFENDANT, the following trial and trial-related dates are:**

All motions in limine, voir dire questions, and jury instructions must be submitted to District Judge John R. Tunheim on or before **February 2, 2023**.

This case must commence trial on **February 9, 2023**, at **9:00 a.m.** before District Judge Tunheim in **Courtroom 14E**, Diana E. Murphy U.S. Courthouse, 300 South Fourth Street, **MINNEAPOLIS**, Minnesota.

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- b. **IF PRETRIAL MOTIONS ARE FILED, the trial date, and other related dates, will be rescheduled following the ruling on pretrial motions. Counsel must contact the Courtroom Deputy for District Judge Tunheim to confirm the new trial date.**

Dated: November 8, 2022

s/Tony N. Leung  
TONY N. LEUNG  
United States Magistrate Judge  
District of Minnesota

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